

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ANTHONY GASKINS,

Plaintiff,

v.

KATHLEEN DENNEHY et al.,

Defendants.

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) **Civil Action No.**
) **07-10084-PBS**
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ORDER

SARIS, C.J.

1. Plaintiff's "Motion to file Motion for Relief from Judgment, Rule 60(b), with Affidavit, Exhibits" (Docket Entry No. 55) is hereby GRANTED In Part and DENIED In Part. Plaintiff's motion is hereby GRANTED only to the extent that he is granted leave to file the documents docketed on February 24, 2016 (Docket Entry Nos. 55 – 62). All other requests for relief in that motion are hereby DENIED.

2. Plaintiff's Motion to Vacate January 16, 2008 Order (Docket No. 57) and Plaintiff's Motion for Relief from Judgment Pursuant To Rule 60(b) (Docket No. 62) are each hereby DENIED. The motions are untimely as they are brought more than seven years after the judgment. *See* Fed. R. Civ. P. 60(c). Even if the motions were timely, the purported newly discovered evidence is not "newly discovered" for purposes of this motion and, in fact, most of the purported newly discovered evidence relates to alleged acts and omissions that post-date final judgment in this action. *See Rivera v. M/T Fossarina*, 840 F.2d 152, 156 (1st Cir.1988) ("'[N]ewly discovered evidence' normally refers to 'evidence of facts in existence at the time of trial of which the aggrieved party was excusably ignorant'")(citation omitted). Further,

plaintiff's claims for fraud are conclusory, conjectural and speculative. *See* Fed R. Civ. P. 60(b) and (c).

3. Plaintiff's Motion for Discovery (Docket Entry No. 61) is hereby DENIED.

4. Plaintiff's Motion to Amend Complaint (Docket Entry No. 56) is hereby DENIED. *See Fisher v. Kadant*, 589 F. 3d 505, 509 (1st Cir. 2009)(holding that unless Rule 60 motion allowed, and judgment set aside, "the case is a dead letter, and the district court is without power to allow an amendment to the complaint because there is no complaint left to amend.").

So Ordered.

Dated: April 17, 2016

/s/ Patti B. Saris
PATTI B. SARIS
Chief Judge, United States District Court